

DCP:MAS:mel

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>OLIVER M. BOLING,</b>	:	<b>No. 3:CV-07-1133</b>
<b>Plaintiff</b>	:	
	:	
<b>v.</b>	:	<b>(Kosik, J.)</b>
	:	
<b>DR. ANTHONY BUSSANICH,</b>	:	
<b>IVAN NAVARRO;</b>	:	
<b>LUIS RAMIREZ;</b>	:	
<b>HOWARD HUFFORD;</b>	:	
<b>“JOHN DOES NOS. 1-10; and</b>	:	
<b>THE UNITED STATES OF AMERICA</b>	:	
<b>Defendants</b>	:	<b>Filed Electronically</b>

**BRIEF IN SUPPORT OF  
DEFENDANTS' MOTION FOR LEAVE TO FILE  
A BRIEF IN EXCESS OF FIFTEEN PAGES**

Defendants respectfully submit this brief in support of their motion to exceed the fifteen page, 5,000 word limit as provided in M.D. Pa. Local Rule 7.8 in filing the reply brief in support of their Motion to Dismiss and for Summary Judgment on February 8, 2010.

## **I. Procedural History**

Plaintiff Oliver M. Boling (“Boling”) filed his Amended Complaint, through counsel, against the United States of America and the following Bureau of Prisons employees: Clinical Director Anthony Bussanich, M.D.; Physician Assistant Ivan Navarro; Physician Assistant Luis Ramirez; former Associate Warden Howard Hufford and “John Does Nos. 1 - 10.” On May 11, 2009, while the parties were engaged in discovery, Boling identified two of the John Doe defendants as being Administrative Assistant Karen Masser and Health Information Technician Lisa Wyant.

On December 18, 2009, Defendants filed a Motion to Dismiss and for Summary Judgment with supporting documentation and brief. Boling opposed the Motion and Defendants will be filing their reply brief on February 8, 2010. This brief supports a motion by Defendants to exceed the local rules regarding page limitations for briefs.

## **II. Factual Background**

In his Amended Complaint, Boling alleges “[b]etween July 2005 and October 2005” Defendants Dr. Anthony Bussanich, Physician’s Assistant (PA) Ivan Navarro, PA Luis Ramirez, Howard Hufford, Lisa Wyant, and Karen Masser “repeatedly refused to treat Boling,” “repeatedly refused to schedule a medical examination,” for

him and “repeatedly refused to perform basic examinations, which could have led to an appropriate diagnosis and treatment of [his] colovesicular fistula.” Amended Complaint (Doc. 16) ¶¶76, 87, 98, 109, 117. Additionally, Boling alleges the United States negligently “rendered medical care and services to [him] and/or ignored [his] serious medical needs.” Id. at ¶¶124-132. Boling also alleges that “[i]n May 2006, [his] colovesicular fistula was finally repaired.” Id. at ¶71.

### **III. Question Presented**

Whether this Court should allow Defendants to file a brief that exceeds the 15 page limitation, but does not exceed 33 pages in length?

**Suggested Answer:** Affirmative.

### **IV. Argument**

Because of the legal claims and defenses raised in Defendants’ 39-page principle brief and Plaintiff’s 38-page opposition thereto, and the need to address the underlying facts relevant to each portion of the claim, Defendants are unable to address all of Plaintiff’s allegations and opposition arguments in a fifteen page or 5,000 word reply brief. Defendants submit that their brief will be no longer than thirty-three (33) pages in length and likely less. Plaintiff will not be prejudiced in granting this Motion; indeed, granting this Motion should assist Plaintiff in understanding all of Defendants’ defenses.

## V. Conclusion

For the reasons stated above, Defendants request that this Court grant their request for leave to file the Reply Brief in Support of their Motion to Dismiss and for Summary Judgment in excess of the fifteen page, 5,000 word limit.

Respectfully submitted,

DENNIS C. PFANNENSCHMIDT  
United States Attorney

s/ Melissa A. Swauger  
MELISSA A. SWAUGER  
Assistant U.S. Attorney  
PA 82382  
MICHELE E. LINCALIS  
Paralegal Specialist  
316 Federal Building  
240 West Third Street  
Williamsport, PA 17701  
Phone: (717)221-4482  
Facsimile: (717)221-2246  
[Melissa.Swauger@usdoj.gov](mailto:Melissa.Swauger@usdoj.gov)

Date: February 5, 2010

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	:	
<b>DR. ANTHONY BUSSANICH,</b>	:	
<b>et al.,</b>	:	
<b>Defendants</b>	:	<b>Filed Electronically</b>

**CERTIFICATE OF SERVICE BY MAIL**

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on February 5, 2010, she served a copy of the attached

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via the Court's electronic case filing system to the electronic mail address stated below,

Timothy P. Matthews  
W. Brad Nes  
Morgan, Lewis & Bockius, LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
[tmatthews@morganlewis.com](mailto:tmatthews@morganlewis.com)  
[bnes@morganlewis.com](mailto:bnes@morganlewis.com)

s/ Michele E. Lincalis  
MICHELE E. LINCALIS  
Paralegal Specialist